

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

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| NICOLE WOOTEN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. 2023-0012 |
| |) | |
| LIMETREE BAY TERMINALS |) | |
| d/b/a OCEAN POINT TERMINALS, |) | |
| PORT HAMILTON REFINING & |) | |
| TRANSPORTATION, WEST INDIES |) | |
| PETROLEUM LTD., and LIMETREE |) | |
| BAY REFINERY, LLC, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Attorneys:

Lee J. Rohn, Esq.

Jennifer Sue Koockogey, Esq.

St. Croix, U.S.V.I.

For Plaintiff

Donnie Marcel King, Esq.

Miami, FL

For Defendant Limetree Bay Terminals d/b/a Ocean Point Terminals

Andrew C. Simpson, Esq.

St. Croix, U.S.V.I.

For Defendant Port Hamilton Refining & Transportation

ORDER

THIS MATTER comes before the Court on Defendant Limetree Bay Terminals d/b/a Ocean Point Terminals' ("Ocean Point") "Motion to Dismiss the First Amended Complaint." (Dkt. No. 13). On December 13, 2023, Plaintiff filed a motion to amend the First Amended Complaint (Dkt. No. 36), which was granted by Magistrate Judge Emile A. Henderson III on December 15, 2023 (Dkt. No. 37). Plaintiff filed the Second Amended Complaint on December 26, 2023 (Dkt.

No. 38), and Defendant Ocean Point filed an answer to the Second Amended Complaint on January 23, 2024 (Dkt. No. 46).

Because the Second Amended Complaint, by operation of law, has become the operative pleading in this case, the Court will deny as moot Defendant Ocean Point's "Motion to Dismiss the First Amended Complaint." *See United States of Am. for the USE of Heavy Materials, LLC v. Tip Top Constr. Corp.*, No. CV 2015-0008, 2016 WL 2992116, at *8 n.16 (D.V.I. May 20, 2016) (holding that "[b]ecause the First Amended Complaint is the operative pleading in this case, the Court will deny as moot Defendant's Motion to Dismiss Plaintiff's Original Complaint"); *Josse v. United States of Am.*, No. CV 2011-013, 2013 WL 152170, at *1 n.1 (D.V.I. Jan. 11, 2013) (holding that "[i]n view of Plaintiff's filing of the Second Amended Complaint, the Court will deny as moot VIPA's Motion to Dismiss the First Amended Complaint"); *see also Garrett v. Wexford Health*, 938 F.3d 69, 82 (3d Cir. 2019) ("In general, an amended pleading supersedes the original pleading and renders the original pleading a nullity. Thus, the most recently filed amended complaint becomes the operative pleading.") (internal citations omitted).

In view of the foregoing, it is hereby

ORDERED that Defendant Ocean Point's "Motion to Dismiss the First Amended Complaint" (Dkt. No. 13) is **DENIED AS MOOT**.

SO ORDERED.

Date: February 7, 2024

_____/s/_____
WILMA A. LEWIS
District Judge